

REMARKS

Applicants reserve the right to prosecute the subject matter of the non-elected claims in a divisional application should this prove to be necessary.

Manual of Patent Examining Procedure § 803 is entitled “Restriction — When Proper” and provides in pertinent part:

“If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

* * *

“There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent * * * or distinct as claimed * * *; and
 - (2) There must be a serious burden on the examiner if restriction is not required * * *.
- [All emphasis added.]”

Consequently, the Examiner’s authority to insist upon restriction only extends to those situations where the failure to insist upon restriction would subject the Examiner to serious burden.

On the present record, the Examiner has not established that the examination of all four groups would subject her to a serious search burden. In view of the foregoing, and in

the absence of a showing of a serious search burden, Applicants submit that the Examiner is required to examine all of Groups I-IV in this single application.

Early and favorable action is earnestly solicited.

Respectfully submitted,

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